IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP NO.16908 of 2006
DATE OF DECISION: October 26, 2006

Ashok Kumar

….Petitioner

VERSUS

Assistant Commissioner, Municipal Corporation and others

…..Respondents

CORAM:- HON'BLE MR. JUSTICE VINEY MITTAL
HON'BLE MR. JUSTICE H.S. BHALLA

PRESENT: Shri I.P.Atre, Advocate for the petitioner.

Viney Mittal,J.(Oral).

The petitioner has approached this Court challenging the order dated January 3, 2002 whereby the transit site No.129, Rehabilitation Colony, Mauli Jagran, Chandigarh allotted in favour of the petitioner has been ordered to be cancelled. Additionally, the petitioner has challenged the order dated January 17, 2006 passed by the Chief Administrator, UT, Chandigarh, respondent No.2, dismissing the appeal filed by the petitioner.

Shri I.P.Atre, the learned counsel appearing for the petitioner has contended that certain facts noticed in the order dated January 17, 2006 passed by the Chief Administrator are factually incorrect, inasmuch as, the petitioner had raised the construction on the site in question much prior to the date of the passing of the appellate order and even unauthorised construction raised by him had already been removed before the passing of the final order by the

appellate authority. The learned counsel states that the aforesaid fact was even brought to the notice of the appellate authority but has not been taken note of. The learned counsel has also argued that the observations made by the appellate authority that one Suresh Kumar was living in the construction raised by the petitioner are also factually incorrect, inasmuch as, the petitioner was residing in the dwelling unit alongwith his family.

After taking into consideration the pleas raised on behalf of the petitioner before this Court, we are satisfied that if certain facts have not been noticed by the appellate authority or certain incorrect facts have been so noticed by the appellate authority, then the petitioner should first approach the appellate authority by way of filing a review application. If any such review application is filed within a period of three weeks from the date a certified copy of this order is received, then the appellate authority shall consider the aforesaid review application filed by the petitioner on merits of the controversy, without rejecting the same on the question of maintainability.

The present petition is disposed of accordingly.

A copy of the order be given dasti on payment of usual charges.

(Viney Mittal)
Judge

October 26, 2006
KD

(H.S. Bhalla)
Judge